

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Kotzin)
For: A Method and System for)
Managing Access to Presence)
Attribute Information)
Serial No.: 10/749,321)
Filed: December 31, 2003)
Examiner: Lee, C.)
Art Unit: 2181)

Pre-Appeal Brief Request for Review

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

Applicant hereby requests review of the final rejection in the above-identified application. No amendments are being filed with this request. The present request is being filed in conjunction with a notice of appeal. The review is being requested for the reasons stated below, which frames the issue to be considered as part of the pre-appeal review process.

The Examiner rejected claims 1, 6, 7, 10, 11, 15, 16 and 19-22 as being unpatentable over alleged admitted prior art (AAPA) , in view of Raverdy et al., US Patent No. 6,957,217; claims 2-5, 13, 14 and 23 as being unpatentable over AAPA and Raverdy et al., '217, in view of Wade et al., US Patent No. 5,552,776; claims 8, 9, 17 and 18 as being unpatentable over AAPA and Raverdy et al., '217, in view of Fushiki et al., US Patent No. 6,433,704; and claim 12 as being unpatentable over AAPA and Raverdy et al., '217, in view of Kruse et al., US Patent No. 6,684,279. However, contrary to the assertions of the Examiner, the claims are neither anticipated nor made obvious in view of the teachings of the references, either alone, or in combination, in so far as the references fail to make known or obvious each and every feature of the claims. Most notably, the combination of references fail to make known or obvious an

associated user field identifying one or more users that have conditional access to user presence attribute information, as well as one or more associated access condition entries, which defines the conditions when the user presence attribute information is available to the corresponding one or more users.

As part of reopening prosecution the Examiner continues to rely upon alleged teachings in the background description of the present application, which the Examiner characterizes as admitted prior art, as making known the same. However, not everything the Examiner attempts to identify as admitted prior art can be fairly characterized as admitted prior art. Nor does the Examiner account for the contextual inconsistencies in attempting to relate the allegedly admitted prior art with the teachings, which can be found in the cited and relied upon references.

While most recently, the Examiner has curtailed the cited portions that he attempts to rely upon from the detailed description, which he alleges is admitted prior art, several claimed features are still unaccounted for.

The applicant acknowledges that presence attributes are presently used as a way to define, manage and convey a user's relationship relative to a communication network, the same being noted in the background description. However, the applicant does not suggest that an ability to define access conditions relative to the presence attributes exist in the prior art, nor does the applicant suggest that the access conditions are previously known to be associated with one or more users that may be attempting to obtain the user presence attributes. The Examiner is taking language in the background section out of context, and ignoring the fact that some of the background section is devoted to identifying deficiencies in the prior art, and what may be possible and desirable should a manner in which to overcome those deficiencies be developed.

As a result not only has the Examiner admitted that many of the claimed elements are neither taught nor suggested by the art references relied upon by the Examiner, but then inappropriately suggests that the features are identified by the applicant as being part of the prior art. As noted above, contrary to the Examiner's suggestion, the prior art as defined by the background of the invention does not teach or suggest an ability to define access conditions relative to the presence attributes, nor is an association of the access conditions with one or more users identified in a user field made known or obvious by the discussed prior art.

In view of the fact that the alleged prior art as described in the background of the art section of the present application fails to in fact attribute the acknowledged missing features

from the references to the prior art, the combination of references and teachings relied upon by the Examiner fail to make known or obvious each and every feature of the claims. Merely reversing the references fails to correct the above noted deficiencies. As a result, the applicant would respectfully request that the Examiner's final rejection of the claims be withdrawn.

Respectfully submitted,

BY: /Lawrence Chapa/

Lawrence J. Chapa

Reg. No. 39,135

Phone (847) 523-0340

Fax. No. (847) 523-2350

Motorola, Inc.
Mobile Devices
Intellectual Property Department
600 North US Highway 45, W4 35Q
Libertyville, IL 60048